

IN RE: PETITION FOR SPECIAL EXCEPTION \* BEFORE THE  
SE/5 Clement Avenue, 272' NE \* DEPUTY ZONING COMMISSIONER  
of Joppa Road \* OF BALTIMORE COUNTY  
(8913 Clement Avenue)  
9th Election District  
4th Councilmanic District \* Case No. 91-192-X  
Joseph Dieter, et ux  
Petitioners

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Petitioners herein request a special exception for a dance studio on the subject property in accordance with Petitioner's Exhibit 1.

The Petitioners appeared, testified and were represented by Michael I. Gilbert, Esquire. Appearing as Protestants in the matter were David and Jacqueline Stinebaugh and Marie Royston, adjoining property owners.

Testimony indicated that the subject property, known as 8913 Clement Avenue, consists of 15,000 sq.ft., zoned R.O. and is improved with a two-story dwelling which is presently vacant. Petitioners also own and reside on the adjoining property, known as 8911 Clement Avenue. Petitioners are desirous of converting the subject dwelling, which is in poor condition, to a dance studio on the first floor and an apartment on the second floor for their son who is a dance instructor. Evidence presented indicated that the subject property is located near the corner of Clement Avenue and Joppa Road which has had parking problems and that the subject site is difficult to access. Petitioners argued they have ample on-site parking and that the property will be landscaped to provide screening from adjoining residential properties. Testimony indicated that generally, most of the congestion in the area is early in the morning on weekdays and Friday evenings until approximately 6:00 PM. Petitioners testified that

there would be no more than 10 students at the studio at any given time. After discussing the matter with their neighbors, Petitioners agreed that the hours of operation, unless modified by public hearing, would be Monday through Thursday, from 3:00 PM to 9:00 PM, Fridays from 6:00 PM to 9:00 PM, and Saturdays from 9:00 AM to 9:00 PM and that there would be no hours on Sundays. Testimony indicated that Petitioners have reviewed the requirements of Section 502.1 of the B.C.Z.R. and that the relief requested meets the restrictions contained therein.

The Protestants were initially concerned about the impact the proposed use would have on traffic conditions and the hours of operation. Mr. & Mrs. Stinebaugh reside adjacent to the subject property at 8915 Clement Avenue. They operate a beauty salon on the first floor. After discussing the matter with the Petitioners, it was agreed the hours of operation would be limited to that set forth above.

It is clear that the B.C.Z.R. permits the use proposed in an R.O. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special

exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special exception should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 25<sup>th</sup> day of February, 1991 that the Petition for Special Exception to permit a dance studio on the subject property in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The relief granted herein is limited to a dance studio on the first floor and an apartment on the second floor of the subject dwelling. There shall be no commercial uses in the basement.

- 3) No more than ten (10) students shall be at the studio at any given time.
- 4) Hours of operation for the dance studio shall be limited to Monday through Thursday from 3:00 PM to 9:00 PM, Fridays from 6:00 PM to 9:00 PM, Saturdays from 9:00 AM to 9:00 PM, with no hours on Sundays.
- 5) Prior to the issuance of any permits, Petitioners shall submit a landscaping plan for approval by the Deputy Director of Planning. A copy of the approved plan shall be submitted to this office for inclusion in the case file prior to the issuance of any permits.
- 6) Within fifteen (15) days of the date of this Order, all inoperable, unlicensed vehicles shall be removed from the subject property as well as any trash and debris.
- 7) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

ANN:bjs

ORDER RECEIVED FOR FILING  
Date 2/25/91  
By [Signature]

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

February 28, 1991

887-3353

Michael I. Gilbert, Esquire  
7506 Eastern Avenue  
Baltimore, Maryland 21224

RE: PETITION FOR SPECIAL EXCEPTION  
SE/5 Clement Avenue, 272' NE of Joppa Road  
(8913 Clement Avenue)  
9th Election District - 4th Councilmanic District  
Joseph Dieter, et ux - Petitioners  
Case No. 91-192-X

Dear Mr. Gilbert:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

ANN:bjs

cc: Mr. & Mrs. David Stinebaugh  
8915 Clement Avenue, Baltimore, Md. 21234

Ms. Marie Royston  
8908 Clement Avenue, Baltimore, Md. 21234

People's Counsel

File

**PETITION FOR SPECIAL EXCEPTION**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for

a dance school, pursuant to 203.3.B.1 and

1801.1.C.11,

at 8913 Clement, Balt. Co., MD 21234.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Address

City and State

Attorney's Telephone No.:

Address

City and State

Attorney's Telephone No.:

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Attorney's Telephone No.:

Address

City and State

**SILBERMANN & ASSOCIATES, INC.**

Engineers • Planners • Surveyors

3527 EAST JOPPA ROAD  
BALTIMORE, MARYLAND 21234  
(301) 661-5888  
FAX NO. 661-0728

SEPTEMBER 25, 1990

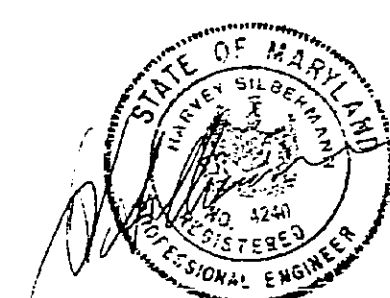
LEGAL DESCRIPTION OF # 8913 CLEMENT AVENUE  
BALTIMORE, MARYLAND 21234

BEGINNING AT A POINT ON THE SOUTHEAST SIDE OF CLEMENT AVENUE, 31 FEET WIDE, AT A DISTANCE OF 272 FEET NORTHEAST FROM THE NORTHWEST SIDE OF JOPPA ROAD, 90 FEET WIDE, SAID POINT OF BEGINNING BEING ON THE DIVISION LINE BETWEEN LOTS 27 AND 28 AS SHOWN ON A PLAT OF "JOPPA PARK ANNEX" RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN PLAT BOOK # 9, FOLIO # 50;

THENCE, RUNNING THE FOLLOWING COURSES AND DISTANCES:

NORTH 38°00'EAST 100.00 FEET; SOUTH 52°00'EAST 150.00 FEET; SOUTH 38°00'WEST 100.00 FEET; NORTH 52°00'WEST 150.00 FEET  
TO THE PLACE OF BEGINNING, AS RECORDED IN LIBER 5764, FOLIO 153.  
BEING LOT # 28 IN A SUBDIVISION OF "JOPPA PARK ANNEX" AS RECORDED IN BALTIMORE COUNTY PLAT BOOK # 9, FOLIO # 50, CONTAINING 15,000.00 SQUARE FEET, OR 0.3444 ACRES.

HARVEY SILBERMANN, P.E.  
PROFESSIONAL ENGINEER  
MARYLAND P.E. # 4240



**Baltimore County Zoning Commissioner**  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Account: R001-6150  
Number: **91-192-X**

Date: 2/28/91

Public Hearing Fees: 1 X \$175.00  
TOTAL: \$175.00

LAST NAME OF OWNER: DIETER

04A0440066NICHRC  
BA C011101AM09-26-90

\$175.00

Please make checks payable to: Baltimore County

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 14th Date of Posting: 2/21/91  
Posted for: Special Exception  
Petitioner: Joseph Dieter, et ux  
Location of property: 8913 Clement Ave. Baltimore, Md.  
Location of Signs: Four, Clement Ave. signs, 10' on each side of property.  
Remarks: None  
Posted by: [Signature] Date of return: 4/4/91  
Number of Signs: 4







BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE  
OCTOBER 12, 1990  
TO: J. ROBERT HAINES, ZONING COMMISSIONER, DEPARTMENT ZONING  
FROM: CHARLES F. BURNHAM, PLANS REVIEW CHIEF, DEPARTMENT OF PERMITS & LICENSES  
SUBJECT: ZONING ITEM #: 140  
PROPERTY OWNER: Joseph Dieter, et ux  
LOCATION: SE/S Clement Avenue, 272' NW of Joppa Road (8913 Clement Avenue)  
ELECTION DISTRICT: 9th  
COUNCILMANIC DISTRICT: 4th  
A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:  
(X) PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.01.07, MARYLAND BUILDING CODE FOR THE HANDICAPPED.  
( ) PARKING LOCATION (X) RAMP (degree slope)  
(X) NUMBER PARKING SPACES (X) CURB CUTS  
(X) BUILDING ACCESS (X) SIGNAGE  
( ) PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.  
(X) A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN. SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE REQUIRED.  
(X) A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS. EGRESS SHALL BE SUFFICIENT TO LEAD FROM EACH ROOM TO THE EXTERIOR.  
( ) STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS, SECTION 516.0 COUNCIL BILL #158-88 (BALTIMORE COUNTY BUILDING CODE).  
( ) OTHER -  
PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.  
THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN. A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE SUBMITTED.  
APPLICABLE CODE: 1987 NATIONAL BUILDING CODES AS ADOPTED BY COUNCIL BILL #158-88.

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE  
TO: J. Robert Haines DATE: October 26, 1990  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning  
SUBJECT: Joseph Dieter, Item No. 140  
The Petitioner requests a Special Exception for a dance school.  
Based upon a review of the request and a site inspection, staff offers the following comments:  
- On October 26, 1990, staff visited the subject site and found the property was improved with a detached, single-family dwelling whose condition suffered from a degree of deferred maintenance. An inoperable unlicensed pick-up truck was observed in the driveway and scattered auto parts and other debris was observed on the property.  
- A house on an adjoining lot (8911 Clement Avenue - also owned by the Petitioner) appears to be used for residential purposes since a small garden plot is located in the side yard, and outdoor furniture is present on the front porch. As in the case of the house on the subject property, the level of maintenance is deficient.  
Staff recommends that prior to final consideration of this matter, the zoning commissioner or his designee visit the property.  
Should the Petitioner's request be granted, staff recommends the following:  
- The Petitioner shall file a landscape plan with the deputy director of the Office of Planning and Zoning prior to the issuance of any building permits.  
- The hours of operation should be indicated on the plat accompanying the Petitioner's request.

received  
10/30/90

Joseph Dieter, Item No. 140  
Page 2  
October 26, 1990  
- The site under consideration of the Special Exception should be brought into compliance with all laws within a reasonable time after the release of the commissioner's finding of fact and conclusion of law.  
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.  
PK/JL/cmm  
ITEM140/ZAC1

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE  
TO: Mr. Wirth / SWM DATE: March 29, 1991  
Mr. Powell / ETRD  
Mr. Pilson / WAS  
Mr. Flowers / CBCA  
Mr. Fisher / Planning  
Mr. Richards / Zoning  
Mr. Bowling / DED  
Mr. Famill / Traffic  
Mr. Weiss / Sanitation  
Mr. Beaumont / Land Acq.  
Ms. Lutz / House Nos.  
Capt. Kelly / Fire Dept.  
Mr. Kincaid / Rec. Parks  
Mr. Brocato / SHA  
Mr. Butcher / CSP  
FROM: Susan Wimbley  
Bureau of Public Services  
SUBJECT: District: 906  
Project Name: Joseph Dieter Property  
Project No.: 90342  
Engineer: Harvey Silverman  
Phone No.: 661-5889  
ACTION REQUESTED:  
CRG Plan Review (Meeting Waived) : XX W-90-238  
CRG Plan Refinement Review :  
CRG Non-Material Amendment Review :  
CRG Plan Approval Extension Review :  
Paraphrase Minor CRG Plan Review :  
Minor Subdivision Review :  
Please review the attached plan for compliance with current regulations and return comments to our office by 4/19/91. If you have no comments or do not need to review this plan, please indicate by placing your initials here.  
Thank you for your attention to our request.  
SDW:mmm  
cc: File

To: Kate  
3/29/91 uor

JOSEPH DIETER PROPERTY  
W-90-238  
Revised Plan Date: 3/19/91  
Comments Due: 4/19/91  
Comments Date: 4/19/91  
Comments Typed: 4/19/91  
1. Change the title of the plan to "C.R.G. PLAN".  
2. Provide a zoning history by case number on the plan including the date of the last Order, what was requested, granted or denied and listing and indicating compliance with any restrictions including, but not necessarily limited to, case numbers 91-192-X.  
3. Indicate paving type.  
If you have any questions, please do not hesitate to call me at 887-3391. Any requests for further information from the Zoning office must include a reference to the waiver file #W-90-238 and written correspondence or revised plans must be accompanied by a copy of these comments.  
Catherine A. Milton  
PLANNER I  
CAM:scj  
cc: Current Planning  
Zoning File - #91-192-X  
Waiver File

ITEM #140  
91-192-X  
10/2/90:  
Need signature of Joseph Dieter or power of attorney for LRD to sign petition forms for him.  
10/2/90:  
Telephone call to attorney -- Left message that we need original signature of Joseph or power of attorney for Laura to sign.  
10/3/90:  
Telephone call from attorney -- He cannot back-date power of attorney form. Will we accept notarized statement?  
10/3/90:  
Telephone call to attorney -- Per Joe Morrey, we will accept notarized statement from Mr. Dieter. It must contain: (1) authorization for Laura to sign; and (2) authorization for Laura to represent him.  
I told attorney that petition would not be processed until this form was received by me. He will get it to us as soon as possible.  
10/5/90:  
Notarized authorization from Mr. Dieter for his wife to sign and represent him concerning this matter received.  
Petition Taken On 9/26/90  
Final Information /Authorization) Received On 10/5/90

91-192-X

AUTHORIZATION  
140  
I, JOSEPH DIETER, hereby acknowledge that my wife, LAURA RUTH DIETER, had my full Power and Authority to sign my name to the Petition for Special Exception currently filed with the Baltimore County Zoning Office and she further has my full Power and Authority to represent me in that matter.  
IN WITNESS WHEREOF, I set my hand and seal hereto on the 4th day of October, 1990, in Baltimore County, Maryland.  
Joseph Dieter (SEAL)  
STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:  
I HEREBY CERTIFY that on this 4th day of October, 1990, the above named JOSEPH DIETER, personally appeared before me, and made oath in due form of law and under the penalties of perjury that the foregoing Authorization is in fact, his act and deed and he has full understanding thereof.  
AS WITNESS my hand and Notarial Seal.

Michael I. Gilbert  
Notary Public

91-192-X

RECEIVED OCT 5 1990

MICHAEL I. GILBERT  
ATTORNEY, P.A.  
7506 Eastern Avenue  
Baltimore, Maryland 21224  
(301) 282-0600  
September 24, 1990  
Ms. Kate Milton  
Balt. County Zoning Office  
County Office Bldg.  
Towson, MD 21204  
Re: Clement Ave.  
Dear Ms. Milton:  
Confirming my advice to you, I previously met with Mr. Famill of Traffic and Engineering, and he requested the following regarding this project:  
1. A one way drive parking area.  
2. One "one way" and two "do not enter" signs at the appropriate entrances.  
3. Painted stripes at the appropriate entrances.  
4. Slant parking.  
5. 18' driveways on the sides of the structure.  
Very truly yours,  
Michael I. Gilbert

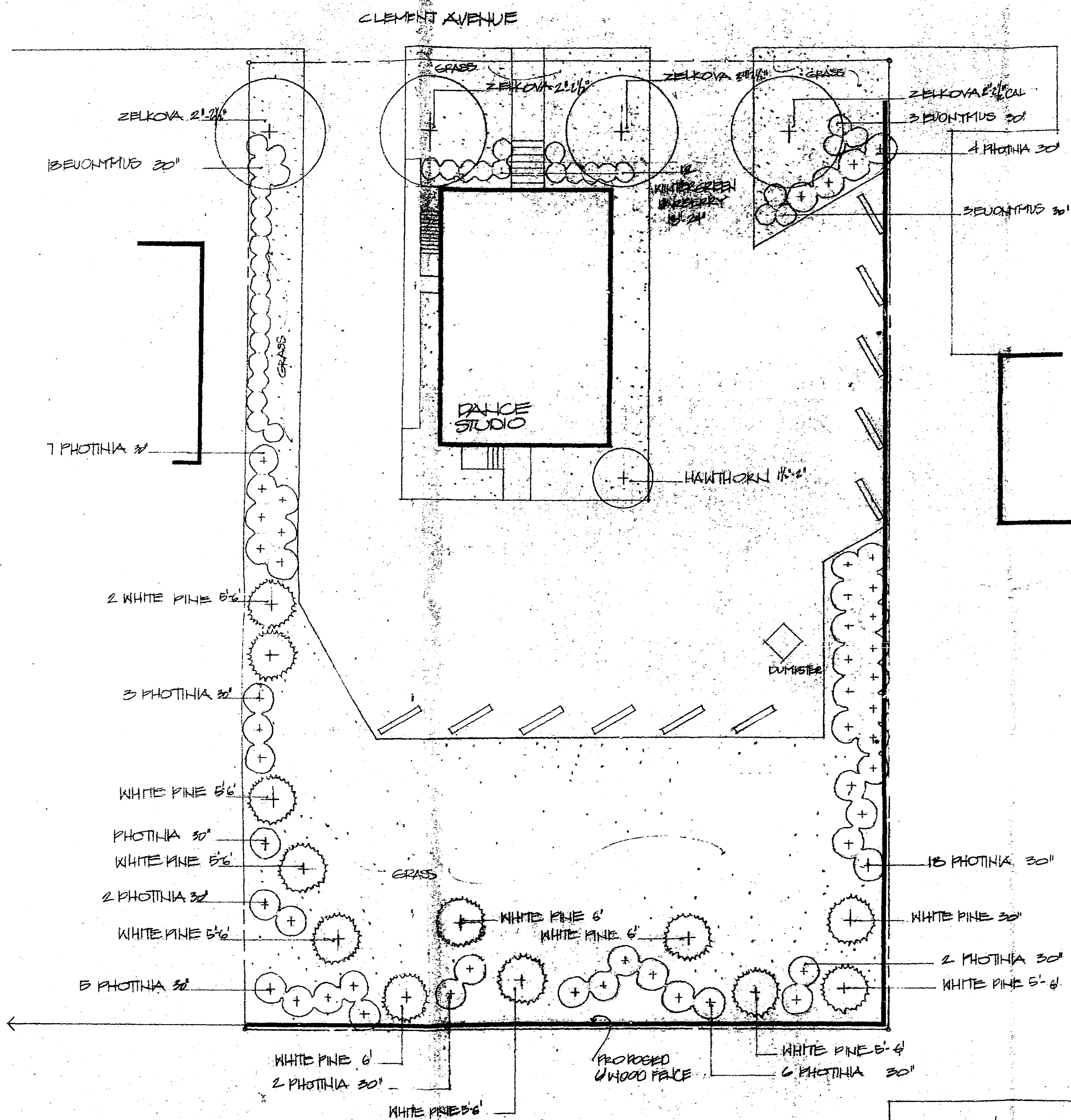
91-192-X

140









# TABULATION OF REQUIRED PLANTING

28 LINEAL FT. OF DUMPSTER SCREENING  
 1 P.U. CLASS 'A' = 5 SHRUBS.  
 1 TOTAL P.U.

# TABULATION OF PROVIDED PLANTING

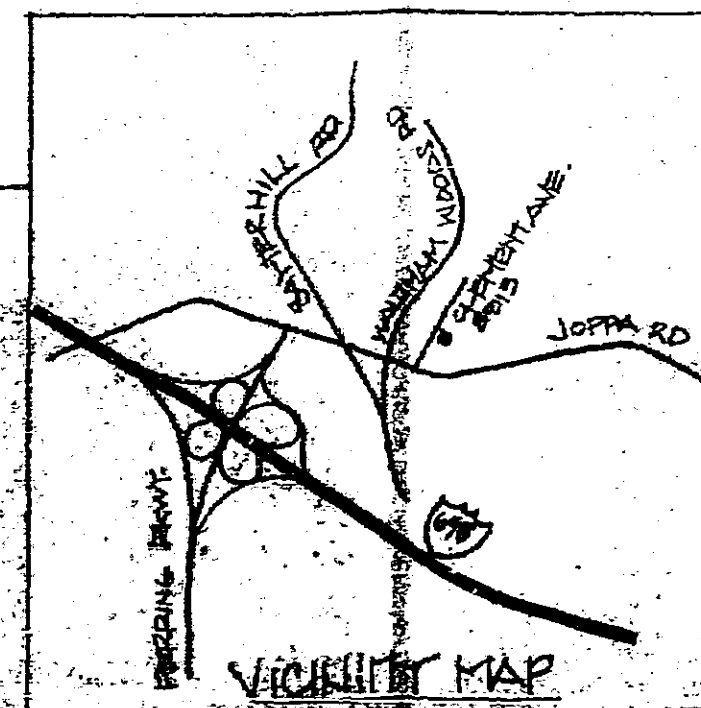
26 P.U. CLASS 'A'  
 4 - MAJOR DECIDUOUS TREE  
 5 - EVERGREEN TREE  
 17 - SHRUB  
 26 TOTAL P.U.

PLANT LIST			
QTY	NAME	SIZE	SPECIFICATION
11	WHITE PINE PINUS STROBUS	5'-6' MIN.	FULL TO DENSE DFB
4	ZELKOVA ZELKOVA SEKKATA 'GREEN VASE'	2 1/2\" CAL.	STRAIGHT STEM - FULL DFB BALANCED HEAD
1	HAWTHORN CRATAEGUS VIRIDIS 'WINTER KING'	1 1/2\" CAL.	CONTAINER
50	PHOTINIA PHOTINIA FRAXELI	30\" HT.	MULTI-STEM CLUMP - FULL CONTAINER
24	EUCYTHUS EUCYTHUS BATES 'MANHATTEN'	30\" HT.	CONTAINER
12	WINTER GREEN BARBERY BERBERIS JULIANAE 'NANA'	15\" 24\" HT.	CONTAINER

I CERTIFY THAT I HAVE REVIEWED THIS FINAL LANDSCAPE PLAN THAT I AM AWARE OF THE REGULATIONS PRESENTED IN THE BALTIMORE COUNTY LANDSCAPE MANUAL, AND I AGREE TO COMPLY WITH THESE REGULATIONS & ALL APPLICABLE POLICY, GUIDE LINES & ORDINANCES.

I AGREE TO IMPLEMENT THIS PLAN & CERTIFY TO BALTIMORE COUNTY ITS IMPLEMENTATION WITHIN ONE YEAR OF APPROVAL

OWNER'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_ OWNER'S NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
 REVIEWED BY \_\_\_\_\_



SIGNATURE & CERTIFICATION BLOCK  
 I, I CERTIFY THAT THIS FINAL LANDSCAPE PLAN MEETS ALL REQUIREMENTS BALTIMORE COUNTY LANDSCAPE MANUAL

WALTER REYNOLDS  
 LANDSCAPE ARCHITECT'S SIGNATURE  
 16409 TRENTON CHURCH RD UPPER MD 21155 301-239-8831  
 DATE 2/18/91

DATE OF ORS PLAN APPROVAL \_\_\_\_\_  
 ORS FILE # \_\_\_\_\_  
 NAKEN # \_\_\_\_\_  
 ZONING CASE # \_\_\_\_\_  
 TAX ACCT. # \_\_\_\_\_

PERMIT No. B 102126  
 CONTROL No. C06-1523-91

PROJECT NO.  
 DATE 11-10-01  
 DATE MAY 28/91

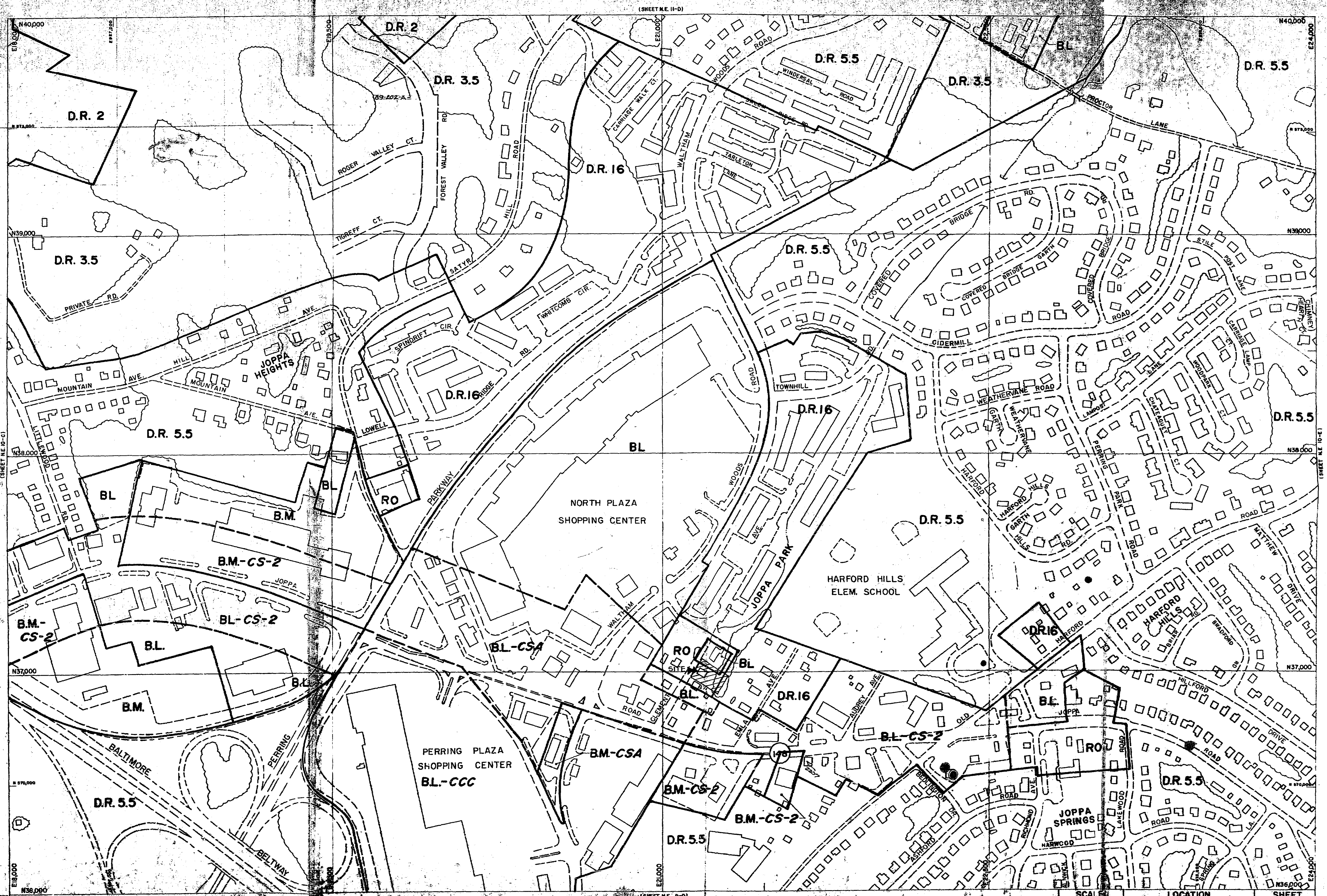
Walter Reynolds Design Associates Ltd.  
 Landscape Architecture and Use Planning  
 16409 Trenton Church Road  
 Upper MD, Maryland 21155  
 Phone (301) 239-8831

LANDSCAPE PLAN FOR MR. JOE DIETER  
 8810 CLEMENT AVE  
 BALTIMORE COUNTY









BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
OFFICIAL ZONING MAP

SCALE 1" = 200'  
LOCATION  
SHEET 10-D  
DATE 9-19-82  
BY [signature]  
9-19-82